

**Dato' Dr Haji Mohamed Haniffa bin Haji Abdullah & Ors v
Koperasi Doktor Malaysia Bhd & Ors and another appeal**

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COURT OF APPEAL (PUTRAJAYA) — CIVIL APPEAL NOS W-02-339
OF 2005 AND W-02-59 OF 2008
GOPAL SRI RAM, ABDULL HAMID EMBONG AND HELILIAH
JJCA
7 MARCH 2008

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*Civil Procedure — Parties — Intervention — One of defendant's shareholders
applied to intervene — High Court granted intervention based on a joint venture
agreement and shareholders agreement — Interested party not a party to those
agreements — Whether there was a case for intervention*

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There were two appeals which were heard together. The first was W-02-59 of 2008 ('the striking out appeal'); and the second, W-02-339 of 2005 ('the intervention appeal'). The original action in the court below was brought by the second and third respondents in the intervention appeal (as the plaintiffs) against twenty defendants. Later, the first respondent, Koperasi Doktor Malaysia Berhad ('KDMB') in the intervention appeal applied to intervene in the action and be added as a co-defendant. The application was opposed by the appellants in the intervention appeal (the first, second and fifteenth defendants in the court below). The judge who heard the application granted it and the first, second and fifteenth defendants appealed against that decision. Subsequently, KDMB as the added defendant delivered its pleading in the form of a cross claim against the first, second and fifteenth defendants. The defendants applied to strike it out and they succeeded. KDMB appealed against the order striking out its pleading. At all times relevant to the appeals, Fomema Sdn Bhd ('Fomema') (the 20th defendant in the court below) had two shareholders. They were Anjur Dinamik Sdn Bhd ('ADSB') (the fifth respondent in the intervention appeal) and KDMB. KDMB based its application to intervene and be added as a defendant on a joint venture agreement and a shareholders agreement (the agreements) it had with ADSB. The plaintiffs in their action were claiming monies and other benefits from the first, second and 15th defendants for their alleged misconduct as a result of which they suffered loss. However, KDMB contended that while there was misconduct on the part of the defendants, the compensation for breach of duty was payable to KDMB and not to the plaintiffs. The first, second and 15th defendants were not parties to either of the agreements. The only question was whether the learned judge was correct in holding that KDMB had made out a case for intervention.

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- A** **Held**, allowing the intervention appeal and dismissing the striking out appeal:
- (1) Order 15 r 6(2)(b) of the Rules of the High Court 1980 permits intervention on two separate grounds. In sub-para (i) of the rule it enables intervention where the presence of a party before the court is necessary. In sub-para (ii) intervention is enabled where a party to an action claims relief or a remedy which will materially affect the non-party-intervener's rights. In such circumstances, the court is empowered to permit intervention if it forms the view that to do so will be just and convenient (see para 5).
- B**
- C**
- D** (2) It was clear from the written evidence that KDMB was not the person who was wronged by the alleged misconduct of the first, second and 15th defendants. From the plaintiff's pleaded case and KDMB's evidence in support of its summons to intervene showed that the real victim was Fomema. Being a limited company, it enjoyed a personality that was separate and distinct from its shareholders and directors. If it suffered a loss because of what the first, second and 15th defendants did or did not do, then it was its loss and not KDMB's loss (see para 9); *Salomon v Salomon & Co Ltd* [1897] AC 22; *Macaura v Northern Assurance Co Ltd & Ors* [1925] AC 619.
- E**
- F** (3) As for the joint venture agreement and the shareholders agreement on which the High Court relied to permit intervention, the first, second and 15th defendants were not parties to the aforesaid agreements. It followed that KDMB could not seek to hold them liable for any breach of these agreements by reason of the doctrine of privity of contract. KDMB must seek recourse against the parties to the agreements by way of a separate suit (see para 12).
- G**
- H** (4) The power to permit intervention is discretionary in nature. In accordance with the settled principles, in an appeal against the exercise of discretion, the initial function of the court is one of review only. But the principles also recognise that the court may intervene where the holder of a discretion takes into account irrelevant considerations or fails to take into account relevant consideration or misdirects himself or herself in law or had misapprehended the facts or where the order he or she makes is unjust. On the facts, the court was satisfied that the High Court fell into serious error when exercising its discretion in the way in which it did (see para 14).
- I** (5) KDMB was not a necessary party because it would not be directly affected by any order that might be made by the High Court on the merits of the plaintiffs' claim against the existing defendants. Further, since no claim had been made against it by the plaintiffs or any other existing party to the action, it had failed to bring itself within the

sub-para (ii) of the rule. Accordingly the High Court had no jurisdiction to permit KDMB to intervene and be added as a party to the suit. The striking out appeal must also fail. If KDMB ought not to have been added as a party, the propriety of its pleading could hardly arise (see paras 13 & 16).

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[Bahasa Malaysia summary]

Terdapat dua rayuan yang didengar bersama. Yang pertama adalah W-02-59 Tahun 2008 ('rayuan pembatalan'); dan kedua, W-02-339 Tahun 2005 ('rayuan pencelahan'). Tindakan asal di mahkamah bawah dimulakan oleh responden kedua dan ketiga di dalam rayuan pencelahan ini (sebagai plaintif-plaintif) terhadap dua puluh defendan-defendan. Selepas itu, responden pertama, Koperasi Doktor Malaysia Berhad ('KDMB') di dalam rayuan pencelahan ini memohon untuk mencelah dalam tindakan tersebut dan ditambah sebagai defendan bersama. Permohonan tersebut dibantah oleh perayu-perayu di dalam rayuan pencelahan ini (defendan pertama, defendan kedua dan defendan kelimabelas di mahkamah bawah). Hakim yang mendengar permohonan tersebut membenarkannya dan defendan-defendan pertama, kedua dan kelimabelas merayu terhadap keputusan tersebut. Kemudiannya, KDMB sebagai defendan tambahan menyampaikan plidingnya dalam bentuk tuntutan balas terhadap defendan-defendan pertama, kedua dan kelimabelas. Defendan-defendan memohon untuk membatalkannya dan mereka berjaya. KDMB merayu terhadap perintah membatalkan pliding mereka. Pada kesemua masa yang relevan semasa rayuan-rayuan ini, Fomema Sdn Bhd ('Fomema') (defendan kedua puluh di Mahkamah Tinggi) mempunyai dua pemegang-pemegang saham. Mereka adalah Anjur Dinamik Sdn Bhd ('ADSB') (responden kelima di dalam rayuan pencelahan ini) dan KDMB. KDMB mendasarkan permohonannya untuk mencelah dan ditambah sebagai defendan ke atas perjanjian usahasama dan perjanjian pemegang-pemegang saham (perjanjian-perjanjian tersebut) di antaranya dengan ADSB. Plaintif-plaintif dalam tindakan mereka menuntut wang dan manfaat-manfaat lain daripada defendan-defendan pertama, kedua dan kelimabelas atas dakwaan salah laku mereka yang menyebabkan plaintif-plaintif mengalami kerugian. Walau bagaimanapun, KDMB menegaskan bahawa memandangkan terdapat salah laku di pihak defendan-defendan, pampasan untuk kemungkiran kewajipan sepatutnya dibayar kepada KDMB dan bukan kepada plaintif-plaintif. Defendan-defendan pertama, kedua dan kelimabelas bukanlah pihak kepada perjanjian-perjanjian tersebut. Satu-satunya soalan ialah sama ada hakim yang bijaksana betul dalam memutuskan bahawa KDMB telah menunjukkan suatu kes untuk mencelah.

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- A **Diputuskan**, membenarkan rayuan pencelahan dan menolak rayuan pembatalan:
- (1) Aturan 15 k 6(2)(b) Kaedah-Kaedah Mahkamah Tinggi 1980 membenarkan pencelahan atas dua alasan yang berlainan. Di sub-perenggan (i) kaedah tersebut ia membenarkan pencelahan di mana kehadiran sesuatu pihak di hadapan mahkamah adalah perlu. Di sub-perenggan (ii) pencelahan dibenarkan di mana sesuatu pihak kepada tindakan menuntut relief atau remedi yang akan menjejaskan secara material hak-hak pencelah-bukan-pihak. Dalam keadaan sedemikian, mahkamah mempunyai kuasa untuk membenarkan pencelahan sekiranya ia berpendapat bahawa berbuat demikian adalah adil dan sesuai (lihat perenggan 5).
- (2) Ia adalah jelas daripada keterangan bertulis bahawa KDMB bukanlah pihak yang telah dipersalahkan melalui dakwaan salah laku oleh defendan-defendan pertama, kedua dan kelimabelas. Daripada kes rayuan plaintif dan keterangan sokongan KDMB menyokong saman untuk mencelahnya menunjukkan mangsa yang sebenarnya adalah Fomema. Sebagai sebuah syarikat berhad, ia mempunyai personaliti yang berasingan dan berbeza daripada pemegang-pemegang sahamnya dan pengarah-pengarahnya. Sekiranya ia mengalami kerugian kerana apa yang telah dilakukan atau tidak dilakukan oleh defendan-defendan pertama, kedua dan kelimabelas, oleh itu ia adalah kerugiannya dan bukan kerugian KDMB (lihat perenggan 9); *Salomon v Salomon & Co Ltd* [1897] AC 22; *Macaura v Northern Assurance Co Ltd & Ors* [1925] AC 619).
- (3) Berhubungan dengan perjanjian usahasama dan perjanjian pemegang-pemegang saham di mana Mahkamah Tinggi menggunakannya untuk membenarkan pencelahan tersebut, defendan-defendan pertama, kedua dan kelimabelas bukanlah pihak-pihak kepada perjanjian tersebut. Dengan itu KDMB tidak boleh menuntut agar mereka bertanggung atas sebarang kemungkiran perjanjian-perjanjian tersebut atas sebab doktrin priviti kontrak. KDMB seharusnya bertindak terhadap pihak-pihak kepada perjanjian-perjanjian tersebut melalui satu tindakan yang berasingan (lihat perenggan 12).
- (4) Kuasa untuk membenarkan pencelahan adalah bersifat budi bicara. Mengikut prinsip-prinsip nyata, di dalam rayuan terhadap pelaksanaan budi bicara, fungsi pertama mahkamah adalah untuk menyemak sahaja. Tetapi prinsip-prinsip juga menerima bahawa mahkamah boleh mencelah di mana pemegang budi bicara mengambilkira pertimbangan yang tidak relevan atau gagal untuk mengambilkira pertimbangan yang relevan atau tersalah arah dirinya di dalam undang-undang atau salah faham fakta atau di mana perintah yang dibuatnya adalah tidak adil.

Atas fakta, mahkamah berpuas hati bahawa Mahkamah Tinggi membuat kesilapan yang serius apabila melaksanakan budi bicaranya di dalam cara yang dilakukannya (lihat perenggan 14).

- (5) KDMB bukannya satu pihak yang perlu oleh kerana ia tidak akan terjejas secara langsung oleh sebarang perintah yang mungkin dibuat oleh Mahkamah Tinggi berdasarkan merit tuntutan plaintif terhadap defendan-defendan. Selanjutnya, oleh kerana tiada tuntutan telah dibuat terhadapnya oleh plaintif-plaintif ataupun oleh pihak-pihak sedia ada yang lain di dalam tindakan tersebut, ia gagal untuk melayakkan dirinya ke dalam lingkungan sub-perenggan (ii) kaedah tersebut. Dengan itu Mahkamah Tinggi tidak mempunyai bidang kuasa untuk membenarkan KDMB mencelah dan ditambahkan sebagai pihak kepada tindakan tersebut. Rayuan pembatalan juga harus gagal. Sekiranya KDMB tidak patut dijadikan sebagai pihak, kesesuaian plidingnya tidak berbangkit (lihat perenggan 13 & 16).]

Notes

For cases on intervention, see 2(1) *Mallal's Digest* (4th Ed, 2007 Reissue) paras 5003–5041.

Cases referred to

Lam Kam Loy & Anor v Boltex Sdn Bhd & Ors [2005] MLJU 225; [2005] 3 CLJ 355 (refd)

Lian Keow Sdn Bhd v Overseas Credit Finance Bhd [1982] 2 MLJ 162 (refd)

Macaura v Northern Assurance Co Ltd & Ors [1925] AC 619 (refd)

Maxwell v Keun [1928] 1 KB 645 (refd)

Pegang Mining Co Ltd v Choong Sam & Ors [1969] 2 MLJ 52 (refd)

Salomon v Salomon & Co Ltd [1897] AC 22 (refd)

Spelling Goldberg Productions v BPC Publishing Ltd [1981] RPC 280 (folld)

Sri Permata Sdn Bhd v PPH Realty Sdn Bhd [2002] 1 MLJ 552 (folld)

Vandervell Trustees Limited v White [1971] AC 912 (folld)

Legislation referred to

Rules of the High Court 1980 O 15 r 6(2)(b)

Appeal from: Civil Suit No D2–22–1412 of 2003 (High Court, Kuala Lumpur)

Harpal Singh Grewal (Jasvinjit Singh with him) (AJ Ariffin, Yeo & Harpal) for the plaintiffs.

Abdullah Abdul Rahman (Cheang & Ariff) for the fourth, sixth and twelfth defendants.

Saranjit Singh (Vasdev Bakshani & Associates) for the third defendant.

A Gopal Sri Ram JCA (delivering judgment of the court):

B [1] There are two appeals before us. The first is W-02-59 of 2008 ('the striking out appeal'); the second, W-02-339 of 2005 ('the intervention appeal'). At the suggestion of counsel on both sides we agreed to take both appeals together. But we heard arguments on the intervention appeal first as its result will have a direct bearing upon the striking out appeal. It will emerge later why this is so. There is a brief history to these appeals. Here it is.

C [2] The original action in the court below was brought by the second and third respondents in the intervention appeal (as plaintiffs) against twenty defendants. Later, Koperasi Doktor Malaysia Berhad ('KDMB') the first respondent in the intervention appeal applied to intervene in the action and be added as a co-defendant. The application was opposed by the appellants in the intervention appeal (the first, second and 15th defendants in the court below). The judge who heard the application granted it. The first, second and 15th defendants appealed that decision. This, then, is the intervention appeal. Later still, KDMB as the added defendant delivered its pleading in the form of a cross claim. It was directed at the first, second and 15th defendants (the appellants in the intervention appeal). These defendants applied to strike it out. They succeeded. KDMB has appealed against the order striking out its pleading. So much for the history. Now for some of the facts of immediate relevance.

F [3] There is a company called Fomema Sdn Bhd ('Fomema'). It is the 20th defendant in the court below and the fourth respondent in the intervention appeal. Now, if you want to employ a foreign worker, say, a maid for your home, you have to satisfy the relevant authorities that he or she is medically fit. For that purpose the worker has to be medically examined. You have to register with Fomema to have that done. Because the examination must be conducted and the report issued by a doctor on Fomema's panel of doctors. You cannot go directly to a doctor of your choice. Fomema therefore has a monopoly over the issuance of medical reports of foreign workers in this country.

I [4] At all times relevant to these appeals, Fomema had two shareholders. They were Anjur Dinamik Sdn Bhd (or 'ADSB') (the fifth respondent in the intervention appeal) and KDMB. ADSB had three shareholders, namely, the plaintiffs and the first, second and 15th defendants. In their action, the plaintiffs impugned certain transactions that had been entered into between ADSB and some of the defendants in the court below who are not parties to either appeal before us. But the plaintiffs claimed no relief whatsoever either against ADSB or Fomema. KDMB based its application to intervene and be

added as a defendant on two agreements it had with ADSB. These are a joint venture agreement dated 18 July 1995 and a shareholders agreement dated 3 October 1996. As explained by its counsel during argument, KDMB's case seems to be this. The plaintiffs in their action are claiming monies and other benefits from the first, second and 15th defendants for their — and here I shall use a neutral term — alleged misconduct as a result of which they suffered loss. However, KDMB contends that while there was misconduct on the part of the aforementioned defendants, the compensation for breach of duty is payable to KDMB and not to the plaintiffs. It is here pertinent to note that the first, second and 15th defendants were not parties to either of the aforesaid agreements. Those then are the undisputed facts relevant to the intervention appeal. And upon these facts the only question is whether the learned judge was correct in holding that KDMB had made out a case for intervention.

[5] In resolving that question, I begin, as I must, with O 15 r 6(2)(b) of the RHC. It reads:

(2) At any stage of the proceedings in any cause or matter the court may on such terms as it thinks just and either of its own motion or on application —

(b) order any of the following persons to be added as a party, namely:

- (i) any person who ought to have been joined as a party or whose presence before the court is necessary to ensure that all matters in dispute in the cause or matter may be effectually and completely determined and adjudicated upon, or
- (ii) any person between whom and any party to the cause or matter there may exist a question or issue arising out of or relating to or connected with any relief or remedy claimed in the cause or matter which in the opinion of the court it would be just and convenient to determine as between him and that party as well as between the parties to the cause or matter ...

Two observations are called for. In the first place, it is important to note that the rule permits intervention on two separate grounds. In sub-para (i) it enables intervention where the presence of a party before the court is necessary. In sub-para (ii) intervention is enabled where a party to an action claims relief or a remedy which will materially affect the non-party-intervener's rights. In such circumstances, the court is empowered to permit intervention if it forms the view that to do so will be just and convenient. Take the obvious case of an action for specific enforcement of a contract for the sale of immovable property brought by a purchaser against the vendor. If the vendor has resold the property to a third party, such third party may be entitled to intervene and be added as a party to the purchaser's

- A action because his rights under the second sale will be materially affected by the relief claimed by the plaintiff purchaser. In such a case what the rule does is 'to enable the court to prevent injustice being done to a person whose rights will be affected by its judgment by proceeding to adjudicate upon the matter in dispute in the action without his being given an opportunity to be heard'.
- B (*Pegang Mining Co Ltd v Choong Sam & Ors* [1969] 2 MLJ 52, per Lord Diplock.) The second observation I would make is this. The court should not read the requirements of the rule as though they are words in a penal statute calling for strict compliance with them before intervention may be permitted. Put differently, the rule should be widely or liberally interpreted (see *Pegang Mining Co Ltd v Choong Sam*). But the court should also bear in mind that
- C 'it must be an interpretation of the language used' by the rule because the rule 'does not give power to add a party whenever it is just or convenient to do so' (*Vandervell Trustees Limited v White* [1971] AC 912, per Viscount Dilhorne). In other words, no 'process of giving a wide or liberal
- D interpretation to the rule can be employed to alter it or to give it an enlarged meaning which, on a fair and reasonable interpretation, it does not bear'. (*Vandervell Trustees Limited v White* per Lord Morris).

- E [6] O 15 r 6(2)(b) of the RHC has been considered in a number of cases. No useful purpose will be served by going through them all and I find it sufficient to quote from three authorities. The first is *Vandervell Trustees Limited v White & Ors* where the issue arose as to whether the inland revenue commissioners should be permitted to intervene and be added as a party to the action. Intervention was refused on the ground that neither limb of the
- F rule applied to the facts there. Lord Diplock said:

- A party to an action must be a person who claims in that action some relief against another party to the action or against who some relief is claimed by another party to the action. There is, in my view, no jurisdiction to add as a party to an existing
- G action a person by and against whom no relief which the court has jurisdiction to grant can be claimed.

- H [7] The next is *Spelling Goldberg Productions v BPC Publishing Ltd* [1981] RPC 280. In that case, sub-para (ii) of the rule came up for consideration on an application to intervene in an appeal pending before the English Court of Appeal. When considering the phrase 'may exist a question or issue' appearing in the sub-para, Bridge LJ (as he then was) said:

- I Clearly what is contemplated is that, at the time when an order for joinder is made under this provision, the question or issue arising out of, or relating to, or connected with the relief or remedy claimed in the cause already arises between the party seeking to be joined and one or other of the existing parties to the litigation. It being conceded that no such question or issue arises here, it seems to me that there is no jurisdiction in the court to accede to the application that these interveners should be joined in the pending appeal.

[8] Lastly, there is *Sri Permata Sdn Bhd v PPH Realty Sdn Bhd* [2002] 1 MLJ 552 where my learned brother Abdull Hamid Embong held that a parties rights should be directly affected before intervention may be permitted. He said (at p 558):

Looking at these authorities, both domestic and foreign, including the recent Court of Appeal decision of *Soo Hong & Leong Kew Hoi & Ors v United Malayan Banking Corp Bhd & Anor* [1997] 1 MLJ 690, which confirmed the *Pegang Mining* test, one factor that came out in consonance to qualify the 'rights against or liabilities to' test is that the intervening party must have been 'directly affected' by any order made by the court on the subject matter.

[9] Now apply the approach suggested by the foregoing cases to the present instance. It is clear from the written evidence that was put before the High Court that KDMB is not the person who was wronged by the alleged misconduct of the first, second and 15th defendants. Put at its highest, the plaintiff's pleaded case and KDMB's evidence in support of its summons to intervene shows that the real victim was Fomema. Being a limited company, it enjoys a personality that is separate and distinct from its shareholders and directors. If it suffered a loss because of what the first, second and 15th defendants did or did not do, then it is its loss and not KDMB's loss. This cardinal principle of company law was established in *Salomon v Salomon & Co Ltd* [1897] AC 22 and exemplified in *Macaura v Northern Assurance Co Ltd & Ors* [1925] AC 619, where Lord Buckmaster said:

Now, no shareholder has any right to any item of property owned by the company, for he has no legal or equitable interest therein. He is entitled to a share in the profits while the company continues to carry on business and a share in the distribution of the surplus assets when the company is wound up.

[10] In *Lam Kam Loy & Anor v Boltex Sdn Bhd & Ors* [2005] MLJU 225; [2005] 3 CLJ 355, I had occasion to discuss the more recent cases on the subject and had this to say about the present state of the law:

In my judgment, in the light of the more recent authorities such as *Adams v Cape Industries Plc* [1990] Ch 433 it is not open to the courts to disregard the corporate veil purely on the ground that it is in the interests of justice to do so. It is also my respectful view that the special circumstances to which Lord Keith referred (in *Woolfson v Strathclyde Regional Council* [1978] SLT 159) include cases where there is either actual fraud at common law or some inequitable or unconscionable conduct amounting to fraud in equity.

[11] Based on what I have said thus far it is clear that KDMB is not affected by any loss that might have been suffered by Fomema. Hence it is not a person that may be directly affected by any judgment that the High Court may give in the main action.

A [12] That brings me to the joint venture agreement and the shareholders agreement on which the High Court relied to permit intervention. It was submitted by learned counsel for KDMB that these agreements were breached. As I have already said, the first, second and 15th defendants are not parties to those agreements. It follows that KDMB cannot seek to hold them
B liable for any breach of these agreements by reason of the doctrine of privity of contract. In my judgment, KDMB must seek recourse against the parties to those agreements by way of a separate suit.

C [13] What the case then comes to is this. KDMB is not a necessary party because it will not be directly affected by any order that may be made by the High Court on the merits of the plaintiffs' claim against the existing defendants. Further, since no claim has been made against it by the plaintiffs or any other existing party to the action, it has failed to bring itself within the sub-para (ii) of the rule. Accordingly the High Court had no jurisdiction to
D permit KDMB to intervene and be added as a party to the suit.

E [14] I am conscious that the power to permit intervention is discretionary in nature. In accordance with settled principles, in an appeal against the exercise of discretion, the initial function of this court is one of review only. But those very principles also recognise that this court may intervene where the holder of a discretion takes into account irrelevant considerations or fails to take into account relevant considerations or misdirects himself or herself in law or has misapprehended the facts or where the order he or she makes is
F unjust. See, *Lian Keow Sdn Bhd v Overseas Credit Finance Bhd* [1982] 2 MLJ 162; *Maxwell v Keun* [1928] 1 KB 645. In the present case, I am entirely satisfied that the High Court fell into serious error when exercising its discretion in the way in which it did.

G [15] For the reasons already given, I would allow the intervention appeal, that is to say, Civil Appeal No W-02-339 of 2005 and set aside the orders of the High Court. KDMB's summons to intervene dated 28 November 2003 is dismissed. KDMB must pay the costs of this appeal and those incurred in the court below. The deposit in court shall be refunded to the appellants.

H [16] It follows from what I have said thus far that Civil Appeal No W-02-59 of 2008 must also fail. If KDMB ought not to have been added as a party, the propriety of its pleading can hardly arise. I would therefore dismiss Civil Appeal No W-02-59 of 2008 with costs and affirm the orders
I of the High Court. A word about costs. Since both appeals were heard together and only one argument was addressed mainly on the intervention appeal, I would direct that the taxing registrar not to permit any getting up in the respondents' favour in respect of Civil Appeal No W-02-59 of 2008. In short, there shall be only one item of getting up permitted and that will

be in Civil Appeal No W-02–339 of 2005. The respondents in Civil Appeal No W-02–59 of 2008 shall however be entitled to their out of pockets and profit costs. The deposit in this appeal shall be paid out to the respondents to account for their taxed costs.

[17] My learned brother Abdull Hamid Embong and my learned sister Heliliah JJCA. have read this judgment in draft and have expressed their agreement with it.

Order accordingly.

Reported by Sally Kee

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